

Remarks

Claims 13 and 14 are cancelled herein. Claims 1, 3 and 9 are amended herein. Claims 1-12 and 15 remain pending in the Application.

Rejection under 102(e)

Claims 1-15

In the Office Action, the Examiner rejected Claims 1-55 under 35 USC 102(e) as being anticipated by Mogul (6606643). Applicant has reviewed Mogul and respectfully states that Mogul does not anticipate the present invention for the following rationale.

Applicant respectfully states that Independent Claims 1 and 9 include the features "a load monitor that monitors the load condition of the content server without requiring monitoring of the network, the load monitor establishing the load condition of said content server by measuring an amount of time between when the content server receives the external access request and when the content server provides the external access request". Support for the Claimed feature is clearly shown in the specification including page 19 lines 1-20.

Applicants respectfully assert that Mogul does not teach or suggest an adaptive load control system including a load monitor that monitors the load conditions of the content server without requiring monitoring of the network as recited in amended Claims 1 and 9. Specifically, Applicants respectfully contend that Mogul relies on monitoring the network. For example, Applicant understands Mogul, even when monitoring the server performance, to monitor the time between acknowledgement arrivals for data packets that were sent immediately after one another (emphasis added). Therefore, Applicant understands Mogul to rely on network monitoring at all stages.

However, the claimed features specifically do not require monitoring of the network. Since Mogul fails to teach or suggest at least one element recited in amended Claims 1 and 9, Applicants respectfully assert that Mogul does not anticipate the subject matter recited in amended Claims 1 and 9.

Moreover, Applicant respectfully states that Independent Claims 1 and 9 include the features "wherein the adaptive load control system modifies an access request address to access the corresponding content file in the adapted content format instead of in the full content format when the content server is in an overload condition". Support for the Claimed feature is clearly shown in the specification including page 19 lines 1-20.

Applicant does not understand Mogul et al. to anticipate the request modification of a corresponding content file in the adapted content format instead of in the full content format when the content server is in an overload condition, when the server overload condition is based on the calculation of the amount of time between when the content server receives the external access request and when the content server provides the external access request regardless of the network or its condition. Since Mogul fails to teach or suggest this element recited in amended Claims 1 and 9, Applicants respectfully assert that Mogul does not anticipate the subject matter recited in amended Claims 1 and 9.

Thus, Applicant respectfully submits that Mogul does not anticipate the present claimed invention as recited in Claims 1 and 9, and as such, Claims 1 and 9 are in condition for allowance.

Therefore, Applicant respectfully submits that Mogul does not anticipate the present claimed invention as recited in Claims 1 and 9, and as such, Claims 1 and 9 are in condition for allowance. Accordingly, Applicant also respectfully submits that Mogul does not anticipate the present claimed invention as recited

in Claims 2-8 which are dependent on an allowable Independent Claim 1 and Claims 10-12 and 15 which are dependent on an allowable Independent Claim 9, and that Claims 2-8, 10-12 and 15 recite further features of the present claimed invention. Therefore, Applicant respectfully states that Claims 2-8, 10-12 and 15 are allowable as pending from allowable base Claims.

Conclusion

In light of the above amendments and remarks, Applicant respectfully requests allowance of Claims 1-12 and 15.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Respectfully submitted,
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